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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/944,405	09/04/2001	Yrjo Holopainen	042933/301613	1195
826	7590	05/01/2006	EXAMINER	
ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000			REVAK, CHRISTOPHER A	
		ART UNIT		PAPER NUMBER
				2131

DATE MAILED: 05/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/944,405	HOLOPAINEN, YRJO	
	<b>Examiner</b>	<b>Art Unit</b>	
	Christopher A. Revak	2131	

**– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –**  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

- 1) Responsive to communication(s) filed on 31 January 2006.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

- 4) Claim(s) 1,6,8,9,17-19,21 and 22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,6,8,9,17-19,21 and 22 is/are rejected.
- 7) Claim(s) 8 and 9 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                     | Paper No(s)/Mail Date. _____ .  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____ .                                  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1,6,8,9,17-19,21, and 22 have been considered but are moot in view of the new grounds of rejection.
2. The indicated allowability of claims 6 and 9 is withdrawn in view of the newly discovered reference to Colosso. Rejections based on the newly cited reference follow. The examiner is regretful in the delay of prosecution.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 1 and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 9 contain the trademark Bluetooth™. Where a trademark is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark does not identify or describe the goods associated with

the trademark. In the present case, the trademark is used to identify/describe a type of wireless device and, accordingly, the identification/description is indefinite.

***Claim Objections***

5. Claims 8 and 9 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to the other claims in the alternative form only and cannot depend from any other multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims have not been further treated on the merits.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1,6,8,9,17-19,21, and 22 are rejected under 35 U.S.C. 102(e) as being anticipated by Colosso, U.S. Patent 6,169,976.

As per claim 1, Colosso teaches of a method for preventing unauthorized use of software accessing a specific hardware module comprising a unique hardware identification sequence wherein the software comprises a license key for being executed. The hardware identification sequence is read out from a specific hardware

module. A predetermined hardware identification sequence is retrieved that is contained in the license key and compared with the read-out hardware identification sequence. Execution of the software is permitted if both sequences match wherein the hardware identification sequence contained in the license key is encrypted and a secret key encoded in the software is used to decrypt the hardware identification sequence. The specific hardware module is a wireless (Bluetooth™) module comprising a unique address (col. 2, lines 37-51; col. 3, lines 16-18,24-28, & 40-67; and col. 6, lines 8-11).

As per claim 6, it is disclosed by Colosso of a second secret key which is known only to a trusted third authority and a second public key corresponding to the second secret key. The second secret key is used for encrypting the public key and the second public key is used for decrypting the encrypted public key wherein the second public key is the only key which allows decrypting data encrypted by the second secret key (col. 3, lines 40-67).

As per claims 8 and 17-19, it is taught by Colosso that the specific hardware module is a network interface module comprising a unique network interface address (col. 3, lines 16-18 & 40-44).

As per claim 9, Colosso discloses that the specific hardware module is a wireless (Bluetooth™) module comprising a unique address (col. 3, lines 16-18 & 40-44 and col. 6, lines 8-11).

As per claims 21 and 22, Colosso teaches of a method for preventing unauthorized use of software accessing a specific hardware module comprising a unique hardware identification sequence wherein the software comprises a license key

for being executed. The hardware identification sequence is read out from a specific hardware module. A predetermined hardware identification sequence is retrieved that is contained in the license key and compared with the read-out hardware identification sequence. Execution of the software is permitted if both sequences match. The hardware identification sequence contained in the license key is encrypted and a secret algorithm coded in the software is used to decrypt the hardware identification sequence. The hardware identification sequence contained in the license key is encrypted and a public key encryption method is used for encrypting and decrypting the unique hardware identification sequence contained in the license key comprising a secret key which is only known to the license key distribution authorities and a public key corresponds to the secret key. The secret key is used for encrypting the hardware identification sequence wherein the public key is the only key that which allows decrypting data encrypted by the secret key (col. 2, lines 37-51 and col. 3, lines 16-18,24-28, & 40-67).

### **Conclusion**

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher A. Revak whose telephone number is 571-272-3794. The examiner can normally be reached on Monday-Friday, 6:30am-3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on 571-272-3795. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2131

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CR  
CH  
April 25, 2006

CHRISTOPHER REVAK  
PRIMARY EXAMINER

CH 4/25/06